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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/606,517

06/25/2003

Walter W. Borden

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KRAMER LEVIN NAFTALIS & FRANKEL LLP
INTELLECTUAL PROPERTY DEPARTMENT
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NEW YORK, NY 10036

EXAMINER

COULTER, KENNETH R

ART UNIT

PAPER NUMBER

2141

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

04/09/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/606,517

Applicant(s)

BORDEN ET AL.

Examiner

Kenneth R. Coulter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/18/03; 3/26/04; 4/8/04</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 1, 2, 7, 8, 11, 27 – 33 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Data structures not claimed as embodied in computer-readable media are descriptive material *per se* and are not statutory because they are not capable of causing functional change in the computer. See, e.g., *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure *per se* held nonstatutory). Such claimed data structures do not define any structural and functional interrelationships between the data structure and other claimed aspects of the invention which permit the data structure's functionality to be realized. In contrast, a claimed computer-readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section

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351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1 – 33 are rejected under 35 U.S.C. 102(e) as being anticipated by Gusler et al. (U.S. Pat. Pub. No. 2003/0105815) (Apparatus and Method for Monitoring and Analyzing Instant messaging Account Transcripts).

4.1 Regarding claim 1, Gusler discloses a method for monitoring electronic communications, comprising:

accessing communications from one of a chat room participant and an instant messaging ("IM") participant (Fig. 4C, item 450; Figs. 6, 7; Abstract "transcripts of instant messages may be generated and analyzed to determine if inappropriate contact with unapproved users is occurring."; paragraphs 8 – 10);

analyzing content of the communications using at least one pattern recognition technique (Abstract "transcripts of instant messages may be generated and **analyzed** to determine if inappropriate contact with unapproved users is occurring."; paragraphs 8, 10, 44);

deciding whether a monitoring event has occurred based upon the analysis results and a set of predetermined rules (Abstract; Figs. 6, 7; paragraphs 74, 75, 82); and

taking at least one predetermined action in response to said monitoring events (Abstract; Figs. 6, 7; paragraph 41).

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4.2 Per claim 2, Gusler teaches the method of claim 1, wherein the accessing, analyzing, deciding and taking are accomplished automatically (Abstract; paragraphs 45, 8 – 10, 41, 44, 74, 75, 82).

4.3 Regarding claim 3, Gusler discloses the method of claim 1, wherein the predetermined rules are stored in a database (Abstract; Figs. 5 – 7; paragraphs 44, 47, 54, 64, 67).

4.4 Per claim 4, Gusler does not explicitly teach the method of claim 3, wherein the database includes an SQL database.

However, SQL database is a commonplace relational database that does not represent a patentably distinct feature over the prior art.

4.5 Regarding claim 5, Gusler discloses the method of claim 3, wherein the predetermined rules include rules based on interactions with one of a chat room participant and an IM participant (Abstract; paragraph 5).

4.6 Per claim 6, Gusler teaches the method of claim 3, wherein the predetermined rules include rules based on interactions between non-chat room participants in a chat room (Abstract; Figs. 6, 7; paragraphs 74, 75, 82).

4.7 Regarding claim 7, Gusler discloses the method of claim 1, wherein the actions

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related to accessing, analyzing and deciding are not displayed to the chat room participant and the IM participant (paragraphs 41, 73).

4.8 Per claim 8, Gusler teaches the method of claim 1, where the at least one predetermined actions includes at least one of informing the chat participant and the IM participant of a rule violation, informing the chat participant and the participant and the IM participant of a potentially dangerous situation, reporting a violation to a parent or guardian of the chat participant or the IM participant, reporting a violation or potential violation to an ISP, and blocking one of the chat room communications and the IM communications (Abstract; paragraphs 41, 43).

4.9 Regarding claim 9, Gusler discloses the method of claim 8, wherein reporting is accomplished via one of wireless communications, electronic mail communications and voice communications (Abstract; paragraphs 24, 41, 43).

4.10 Per claim 10, Gusler teaches the method of claim 9, wherein the wireless communications includes one of cellular telephony and paging systems (paragraph 24 "wireless communication links").

4.11 Regarding claim 11, Gusler discloses the method of claim 1, wherein the monitoring event includes at least one of violation of a chat rule, an occurrence of a

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certain conversational content pattern and an occurrence of a predetermined conversational behavioral pattern (paragraphs 44, 72).

4.12 Per claims 12 – 33, the rejection of claims 1 – 11 under 35 USC 102(e) (paragraphs 4.1 – 4.12 above) applies.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth R. Coulter whose telephone number is 571 272-3879. The examiner can normally be reached on M – F, 7 am – 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571 272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

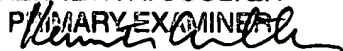
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KENNETH R. COULTER

PRIMARY EXAMINER



krc